Discourses on Islamic Law and Matters of Public Concern

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INTRODUCTION

Praise be to Allah; we praise Him, seek His forgiveness, and turn to Him in repentance. We seek refuge with Him from the evils of our souls and the evils of our deeds. Whomever Allah guides, none can misguide, and whomever Allah leads astray, none can guide. I bear witness that there is no god but Allah alone without partner, and I bear witness that Muhammad is His servant and Messenger.

The Law of Allah, in its final form that was sent with Prophet Muhammad (peace be upon him), is founded upon the principle of bringing about all that is good and preventing all that is harmful. This is the intent of Islamic Law, in both its purposes and its precepts. It has been the intent of Allah's Law throughout time.

Monotheism is the greatest and most noble good that the Law comes to bring about. Conversely, shirk and unbelief are the worst and most onerous forms of evil that it comes to prevent. The final manifestation of the Revealed Law – Islamic Law – is most effective in bringing about this realization. All of its injunctions, from the most general to the most specific, come in connection with this overarching meaning. This applies to every facet of Islamic Law, from laws relating to worship, to those pertaining to personal law and commercial dealings.

For this reason, acquiring understanding of the religion is an act of paramount good. It is one of the noblest ways to emulate the Messengers of Allah (peace be upon them).

It follow that the Muslims will always be in need of people who are versed in Islamic Law, who know its rulings and understand its purposes, and who can assist the people in worshipping Allah properly and establishing justice. These people, the scholars of Islamic Law, must give due regard to the interrelationships that exist between Islamic legal rulings. They need to have a firm grasp of these relationships in order to appreciate the legal implications of the circumstances that Muslims find themselves in so they can respond to those circumstances in a proper manner. In this way, they not only preserve the faith, but they safeguard the lives, honor, and property of the people and prevent mischief in the land.

These matters require knowledge. A person who speaks about such things without knowledge can bring about a lot of harm. They can even cause enmity to well up within society. What comes in the following chapters is a general discussion on how current events and the changing circumstances within Muslim society should be approached from the standpoint of Islamic Law

THE FIRST DISCOURSE
Islamic Law and the Objectives of the Jurist

The Arabic word "*fiqh*", which literally means "understanding", is often used to refer to the science of Islamic Law. This is the science that investigates the specific legal rulings pertaining to worship and all manners of interpersonal dealings. The jurists research these rulings and the evidence used to derive them.

There can be no doubt that all of these rulings, whether accepted unanimously or disputed, constitute part of "*fiqh*" in the broader Islamic context, but they do not constitute all of it. Likewise, there can be no dispute that the study of these particular rulings is a most noble endeavor. Nevertheless, there are broader issues that need to be explored as well.

When we explore particular legal injunctions exhaustively, we often find them to be matters wherein Allah has placed a degree of flexibility. They may be issues without any direct evidence to support them from the *Sunnah*. Sometimes the issue at hand is how much something is preferred in Islamic Law, or whether it is preferred or merely permissible. Sometimes the question is whether something is merely permissible or disliked, or actually prohibited. The issue of the validity of a given action is discussed quite frequently as well. Such questions are restricted to their particular areas of concern and do not extend to the broader, established principles of Islamic Law, nor to the rights and interests of the Muslim nation as a whole.

In spite of this, we see that such matters receive the most careful and well deserved attention from scholars and students of Islamic Law. These scholars gather together, assess, and analyze all the available evidence. They seek out all the scholarly opinions they can in order to determine which opinion is most correct. They spend vast amounts of time and energy searching for the juristic causes of the rulings they are investigating. Those who are not specialists in Islamic Law, when they see this, become rightly intimidated and shrink from commenting on these matters, out of fear of transgressing against the Law of Islam.

This, without doubt, is a very good thing. If those who engage in these investigations do so in a balanced manner and with the right intentions, then they are according Islamic Law the respect that it deserves. Anyone who would wish to be hasty in such matters deserves any reproach that he receives.

However, it is even more fitting to reproach those who delve into contemporary issues and hastily offer their opinions and ideas without giving due consideration to the principles of Islamic Law. This haste comes in spite of the fact that the issue they are investigating could very well end up being a turning point in Muslim history.

It shows a poor understanding of Islam to be meticulous and thorough when it comes to a detail of Islamic Law that has already been exhaustively discussed, and then go forth with gleeful abandon when faced with an unprecedented, complex issue of general concern

and sweeping implications. It seems like everyone feels free to talk about these matters and delve into their causes and solutions. Ibn `Umar got it right when he said to some `Iraqî scholars: "How meticulous you are about the smallest of matters, and how rash you are about the greatest ones!"

It is interesting to observe that when a contemporary issue closely resembles something that has already been dealt with by the scholars of the past, we rarely ever see people drawing hasty conclusions. They are able to restrain themselves because they can analyze the issue abstractly, without looking at its sweeping implications. The similarity of the issue to other issues that have already been discussed by the jurists of old seems to make people show a bit of reserve. On the other hand, when a contemporary development comes along with sweeping implications and numerous interrelated causes, many people, even some who are supposed to be specialists, begin to talk about it glibly. It is as if the novelty and general interest of the matter strips it of the aura of respect that matters of Islamic Law are supposed to command. People tend to view the issue as an example of Islamic Law's flexibility or as a matter of public domain. They forget the implications that the matter must have for the rights and welfare of the people as a whole – the very things that Islamic Law has come to secure and uphold.

The position that the Muslims take on any major issue affecting them must be drawn from the *Qur'ân* and *Sunnah*. It must be arrived at using the principles of guidance and mercy that were brought by the Prophet (peace be upon him).

When Allah's Messenger (peace be upon him) laid siege to the city of al-Tâ'if and failed to achieve any results, he said: "We will withdraw tomorrow, Allah willing."

His Companions found this difficult to accept and said: "Shall we leave without taking the town?"

So the Prophet (peace be upon him) told them: "Then continue fighting tomorrow morning." The next day, they continued fighting and a number of them were wounded. Then he repeated: "We will withdraw tomorrow, Allah willing." This time, they were well pleased with this idea. This made the Prophet (peace be upon him) laugh.[1]

This *hadîth* provides us with some lessons that we can apply in Islamic Law. Some believers, because of the certainty of their faith, always seek to act with fortitude and weather the hardest trials for the sake of Allah. This does not mean that in every case such a stance will conform to the intent of Islamic Law. It is well known that Allah's Messenger (peace be upon him) was the perfect example of how a person should conduct himself in jihad, and he was also a perfect example of honesty, patience and fortitude. Yet, his powerful insight did not let him see things in only one way. He was able to see all the factors that he had to consider before taking a stance. He gave due consideration to the value of continuing the jihad, but he also took into consideration the rights of his Companions, the limits of their strength, and how much difficulty they were able to bear.

[1] *Sahîh al-Bukhârî* and *Sahîh Muslim*.

Most contemporary problems have some readily discernable dimensions. These can easily be discussed by scholars and laymen alike. There is no doubt that this is often the case, but that does not mean that if we consider these dimensions alone, we will be able to arrive at a proper ruling or decision. There are always other dimensions to the problem that reveal just how complex it truly is. These dimensions force us, as Muslims, to be cautious and to give the matter the respect that it deserves as an Islamic issue. We must fear Allah, safeguard our religion, and take the rights and welfare of the people into consideration. We must reflect upon the immediate and future consequences of any position that we take.

THE SECOND DISCOURSE
Ijtihâd and Issues of Public Concern

What does it really mean for someone to perform *ijtihâd* for a new and unprecedented development? It means that he refers it to the decision of Allah and His Messenger (peace be upon him). This task can only be carried out by a qualified scholar of Islamic Law, and this qualification is often not enough. Everything about the situation must be known. All requisite knowledge must be attained. Everything that is somehow related to the issue must be understood along with an appreciation of how it all fits together. You cannot pass judgment on something before you fully understand it.

Because of the need to consider all of the related factors, it is not possible to treat the issue as a theoretical abstraction, detached from the circumstances that surround it. Doing so will invariably lead to serious misunderstandings and false conclusions.

Some investigators into these matters have a tendency to resort to the minutest pieces of evidence in an attempt to derive a ruling for the new situation from a case already found in the books of Islamic Law. In principle, this is a good approach. The problem arises when this leads to ignoring the complex web of circumstances and often conflicting variables that surround the issue. There is a tendency to think too much in the abstract when approaching issues in this way. This can cause an investigator to derive a ruling from a very specific decision in Islamic Law – one in which the jurists may even have disagreed with one another – then sit back as if the matter has been resolved.

This can happen when the investigator has insufficient understanding of the objectives of Islamic Law, even though he may be an astute scholar of the laws themselves and be quite capable of identifying which rulings are most relevant to the case at hand. This, though, is not enough. He must also take into consideration the principles and general injunctions of Islamic Law that are found in the *Qur'ân* and *Sunnah* and that are a point of consensus among the scholars. Everyone who is conversant in matters of Islamic Law agrees that these considerations are important for deriving rulings on unprecedented matters of public concern.

Admittedly, certain matters of jurisprudence and certain general injunctions are the result of the juristic decisions – i.e. the *ijtihâd* – of various scholars. Though these should be taken into consideration as well, they must not be relied upon exclusively.

We can witness this approach in the practice of the Rightly Guided Caliphs, the leading jurists, and the *hadîth* scholars, when they were confronted by new situations.

Ibn `Abbâs relates that the Caliph `Umar b. al-Khattâb set out for Damascus. When he and his party arrived at Sargh, they were met by the members of a military detachment (consisting of Abû `Ubaydah b. al-Jarrâh and his comrades) who informed them that Damascus was stricken with plague.

`Umar said: "Summon to me the emigrants from the Companions." Ibn `Abbâs summoned them, and `Umar informed them about the plague and asked them their opinion on the matter. They disagreed with each other. Some of them saw that since they came out to fulfill a matter, they should not turn away from it.

Others said: "You have with you what remains of the Companions of Allah's Messenger (peace be upon him). We do not see it fit to send them forth into this plague."

`Umar said: "Withdraw from me." Then he said: "Summon for me the Ansâr." Ibn `Abbâs summoned them and `Umar asked them their opinion on the matter. They disagreed just as the emigrants had disagreed.

`Umar said: "Withdraw from me." Then he said: "Summon for me those who are here among the leaders of Quraysh who were present at the conquest of Mecca." Ibn `Abbâs summoned them.

When they were asked, none of them disagreed. They all said: "We see it best to return with the people and not send them into this plague."

`Umar then declared to the people that he was going back, so Abû `Ubaydah b. al-Jarrâh asked him: "Are you fleeing from Allah's decree?"

`Umar replied: "If only someone else besides you could have said that O Abû `Ubaydah! (`Umar disliked disagreeing with Abû `Ubaydah) Yes, I am fleeing from Allah's decree to Allah's decree."

In this Rightly Guided Caliph's *ijtihâd*, there are good lessons in Islamic Law to be learned:

1. One should take issues affecting the public very seriously, consider them carefully, and consult others about them.
2. One should accept the disagreement of other practitioners of *ijtihâd* when it comes to these issues. We can see how the Emigrants and the Ansâr – who were the most eminent Companions – disagreed with each other without criticizing or

condemning one another in any way and without trying to restrict each other's freedom of expression. It is as if those who gave preference to spiritual longing and exercising fortitude generally wanted to go on to Damascus and those who gave preference to juristic considerations generally wanted to turn back. This latter group had a greater acquaintanceship with Islamic Law, while the former was overtaken with the desire to support Islam militarily.

3. One should refrain from putting people through hardships that they will not be able to bear.

We saw the exact same considerations being applied by the Prophet (peace be upon him) during the siege of al-Tâ'if.

Cases like these show us that the one who wishes to approach a situation Islamically must be religious, knowledgeable, meticulous, and insightful in matters of law. Religiousness restrains a person from injustice and knowledge prevents him from speaking in ignorance. This is very important, because injustice and ignorance are the two main causes of error in matters like these. Allah says: "We did indeed offer the trust to the heavens and the Earth and the mountains, but they refused to undertake it and shrank from it. But the human being undertook it. He was indeed unjust and ignorant." [*Sûrah al-Ahzâb*: 72]

Making a decision about the general affairs of the Muslims is one of the weightiest aspects of this trust that the mountains refused to bear. No one who fears Allah should speak on matters that affect the general public without doing so on the basis of Islamic teachings, for Allah says this is only for: "…those who witness to the truth upon full knowledge" [*Sûrah al-Zukhruf*: 86] A number of commentators on this verse state that "the truth" here refers to integrity.

Being honest and having a good intention is no guarantee that your stance will be in accordance with Islamic Law. You must also have knowledge. Agreement with Islamic Law can only be ascertained from a standpoint of knowledge. This is the only way to ensure that the intent of the Law will be carried out and not merely the intent of the one looking into the matter.

This is why Allah commands us to act upon knowledge in dealing with the different circumstances and situations that confront us. Allah says: "When there comes to them some matter touching upon public safety or fear, they divulge it. If they had only referred it to the Messenger or to those in authority among them, the proper investigators would have deduced the matter from them." [*Sûrah al-Nisâ'*: 83] The phrase "those in authority" refers to people involved in decision making and administration, including the jurists and religious scholars, people who possess both reason and understanding. Ibn Jarîr al-Tabarî conveys this interpretation to us from a number of early scholars.

People often fail to refer matters back to Allah and His Messenger when they take a stance on an issue, though many of them have good intentions. Such intentions, however,

can be tarnished by a lack knowledge and understanding of Islamic Law, or by a lack of perception and thought, leading to decisions that cause a lot of misery for many people.

Those who have the knowledge and ability to perform *ijtihâd* in matters of public concern should not be limited by the general public's narrow vision. Allah says: "Are those who know equal with those who do not know? It is those who possess understanding who take heed." [*Sûrah al-Zumar*: 9]

Performing *ijtihâd* in these matters require a special degree of knowledge. The great jurist al-Shâfi`î writes in his work *al-Risâlah*:

> This is a level of knowledge that the general pubic does not have and not every specialist is required to attain. Some of those who have the ability to reach this level of knowledge and act upon it must do so. If a sufficient number of them do so, then, by Allah's grace, the others do not have to, though the virtue and honor of possessing this degree of knowledge belongs only to those who make use of it.

A jurist, after arriving at a decision on a matter of pubic concern, should not go overboard in criticizing and arguing with other scholars who disagree with him. This type of conduct actually shows a weakness in his understanding of Islamic Law. Complex issues of general concern naturally lead to disagreement, since people have different levels of knowledge and understanding. Often, a lot of the harshest criticism being levied against others turns out to be nothing more than the result of the criticizer's own lack of understanding or integrity. Such conduct is often not motivated by the principles of Islamic Law or the dictates of the sacred texts, and just as often the matter under discussion does not warrant a person dealing with other people of knowledge in such a harsh manner. It is quite likely that the ones being criticized are more astute in their reasoning and better acquainted with the matter at hand than the one doing the criticizing.

There are many reasons for disagreement. These matters are generally very complex, and this complexity makes *ijtihâd* very difficult. These issues are multi-dimensional. Some of these dimensions are obvious and can be understood by everyone. Unfortunately, those making *ijtihâd* on these matters often behave like the general public and focus only on these obvious factors, ignoring other equally important but less visible dimensions of the problem.

We can list a number of reasons for this short-sightedness:

1. Force of habit
2. Limitations in perception brought about by a certain academic bias
3. Limitations in perception brought about by specialization
4. Loyalties and affiliations
5. Limited expertise

Sometimes the person investigating a matter is only good at looking at things in one way, so he is unable to approach the matter from other angles. This is a serious impediment to

a proper understanding of the matter. Scholars and jurists must be able to look at issues from every angle and take into consideration all the objectives of Islamic Law.

People of knowledge must also have the ability to look at matters in a way that the general public is not able to look at them. This is what Allah means when he says: "…the proper investigators would have deduced the matter from them." [*Sûrah al-Nisâ'*: 83] The deduction being referred to here is a degree of probity that is only enjoyed by people of knowledge – people who are capable of looking at matters from angles that others are not even aware of.

The unambiguous aspects of Islamic Law that most matters fall under form the basis for Muslim unity, but specialists in Islamic Law have the ability to probe issues more deeply in light of the principles of Islamic Law in order to secure the general welfare and to prevent harm.

This takes a great deal of proficiency in Islamic Law, because the jurist needs to derive a ruling that many people will not be able to grasp. They may not be able to see how the ruling is appropriate because they are looking at it from another, more easily discernable angle. They may even think that the ruling is disregarding or even contradicting what Islamic Law requires, when in actual fact, the jurist had taken all factors into due consideration.

In the *Sunnah* of the Prophet (peace be upon him) there is the story of the Treaty of al-Hudaybiyah. The Prophet (peace be upon him) agreed to some very harsh terms in the treaty, terms which many of his most prominent Companions viewed as a departure from the principles of jihad and a denial of the superiority of the believers. In reality, the treaty was a good thing. Allah even refers to it as a victory when he says: "Verily, We have given you a clear victory." [*Sûrah al-Fath*: 1] The chapter of the *Qur'ân* in which this verse appears was revealed while the Prophet (peace be upon him) was returning from al-Hudaybiyah and his distraught Companions were overcome with grief and disappointment.

The Companions displayed their astuteness in Islamic Law in another case where the correct decision was at odds to what seemed obvious to many. Anas b. Mâlik relates to us that during the Battle of Mu'tah, the Prophet (peace be upon him) announced to his Companions the deaths of Zayd, Ja`far, and Ibn Rawâhah before the news had reached them. He said: "Zayd took up the banner and was killed. Then Ja`far took up the banner and was killed. Then Ibn Rawâhah took up the banner and was killed. Until one of the swords of Allah picked up the banner and Allah made a way for them."[2]

Scholars have different interpretations for the meaning of the words: "…Allah made a way for them." The best opinion is that it refers to the incident when Khâlid b. al-Walîd (who is the "sword of Allah" who assumed leadership of the Muslim forces) withdrew from the enemy. In any case, it is an agreed upon fact that Khâlid's retreat was a

[2] *Sahîh al-Bukhârî* and *Sahîh Muslim*.

praiseworthy decision. Allah's Messenger (peace be upon him) lauded Khâlid's decision, though beforehand some of his Companions had disapproved.

Among the juristic lessons to be learned from this *hadîth* is that considerations of noble purpose, patience, and austerity are not to be taken to the exclusion of other considerations. The principles of Islamic Law came to govern all humanity. This was a sign of Khâlid's understanding of the purposes of jihad. Yes, Khâlid knew full well that among the purposes of jihâd are those that benefit the people who participate in it by affording them the opportunity to achieve martyrdom, personal purification, and rewards in the Hereafter. Likewise, he knew that jihad has wider purposes, like establishing Islam, strengthening its rule, and removing oppression from those who are oppressed on the Earth. The Law of Islam is more merciful to the people than all other bodies of law.

It is a duty of the Muslims not to take their religious knowledge as a source of contention and strife between them. Allah sent the Revelation so that people could refer their affairs to it and unite together on the truth. There is no one who sees all sides to the truth or recognizes all of its dimensions. This is why Islamic Law allows for a measure of disagreement. And it is to this that we shall now turn our attentions.

THE THIRD DISCOURSE
The Type of Disagreement that is Sanctioned by Islamic Law

If we look in the *Qur'ân*, we see that Allah often describes disagreement in negative terms. On occasion, however, He mentions it as a state of affairs that affects the believers, like when He says: "If you differ in anything among yourselves, refer it to Allah and His Messenger, if you believe in Allah and the Last Day." [*Sûrah al-Nisâ'*: 59]

We also see this in Allah's statement: "Whatever it is you differ about, its decision is with Allah." [*Sûrah al-Shûrâ*: 10]

From the time of the Companions onwards, the type of disagreement that is allowed in Islam is restricted to the domain of the scholars, and it is a form of disagreement that is neither reprehensible nor sinful.

A person who is known to have a tenable opinion based on *ijtihâd* must not be condemned or accused of sinfulness, even if it becomes established that he made a mistake. We know that Allah has forgiven him his mistake. Exercising *ijtihâd* is a laudable act in Islamic Law for one who is qualified to engage in it. It is an activity that will earn its practitioner either a single reward or a double reward, as is established in the *hadîth*.

Just because we are forbidden to condemn or hurl accusations at the scholar does not mean that we must accept his mistakes or take his opinions without any supporting

evidence. Many scholars have discussed this distinction in detail, among them Ibn Taymiyah.

It is not required by Islamic Law, nor has it been ordained by Allah, that all the scholars of Islam will agree on matters where juristic discretion is allowed. Whoever fails to recognize this fact has taken knowledge as a source of contention. This was one of the greatest causes of corruption and strife that had afflicted the People of the Scripture and taken them off the truth of Islam that all of the Prophets and Messengers (peace be upon them) came with. Allah says: "The religion with Allah is Islam. Nor did the People of the Scripture dissent therein except out of rebelliousness and envy for each other after knowledge had come to them. But if any deny the signs of Allah, Allah is swift in reckoning." [*Sûrah Âl `Imrân*: 19]

If the jurists themselves who engage in *ijtihâd* believe in excusing one another and refrain from criticizing the personal integrity of those who disagree with them, then how should it be for the general public who have no right to engage in *ijtihâd* but are merely expected to follow the people of knowledge?

Disagreements founded in knowledge, if they become causes for polarization and factionalism, are neither a mercy for the Muslims nor are they a way of following the Law of Allah. Such disagreements rend the fabric of Muslim unity and bring the Muslims back to a time of ignorance. This was the way of the People of the Scripture who clearly deviated from the guidance of their Prophets (peace be upon them).

It is the duty of the people of knowledge to teach the people and make them understand that the principles and objectives of Islamic Law must not be dismantled on the basis of disagreements or interpretations, even with the best of intentions. Most of the conflicts that occur within the Muslim nation have their origins in interpretations that were justifiable with respect to the scholars who made them. Thereafter, people took these interpretations as a way of undoing the edifice of Islamic Law and exploited them as a means of pursuing their own interests. Whenever this happens, the result is an increase in bigotry and zealousness and a decrease in actual knowledge.

If every sincere effort were made to unite the Muslims and put an end to the reprehensible conflicts and disagreements that plague them – which is desperately needed in this day when Muslims are weak, in crisis, and under the power of their enemies – the unity that they could achieve would definitely not be based on absolute agreement in all details of Islamic Law. This has never occurred, not even with the most eminent Companions like Abû Bakr, `Umar, and the other Rightly Guided Caliphs. This did not even occur while Prophet Muhammad (peace be upon him) was alive. The Companions disagreed about the intent of the Prophet (peace be upon him) when he said to them: "None of you should pray the afternoon prayer until he reaches Banû Qurayzah."

Most of the issues that we disagree about today, whether in Law, Qur'anic commentary, or anything else, have their origin with Companions who had held those opinions.

Disagreements are the inevitable results of people's different levels of knowledge, ways of thinking, temperaments, and circumstances.

Allah has made his Law and His Book understandable by way of the rules of the Arabic language, in which some words or statements have only one possible interpretation while others have many. Likewise, some passages are clearly explained while others need clarification. Some are unambiguous while others are harder to discern. Some passages abrogate others. If Allah had willed, He could have made the language of the sacred texts unvaried and made sure that everyone would be able to understand them in the same way.

Allah, however, revealed his words to people whom He created and whom He knows best. He says: "Should not He who created know, and He is the Subtle, All-Aware." [*Surah al-Mulk*: 14] For this reason, Allah mentions His right to command along with His being Creator: "His are the Creation and the Command. Blessed be Allah, the Lord of All the Worlds." [*Sûrah al-A`râf*: 54] Allah is the Creator, the King, the One who does as He pleases, as is exemplified by His Lordship. He is the God who is worshipped, who commands and prohibits, as is required by His Divinity.

Islamic Law requires us to adhere to its methodology in dealing with acceptable cases of disagreement. We must excuse each other, avoid suspicion, eschew discord, and maintain unity and brotherly relations. We must not let our disagreements divide us. Allah says: "O you who believe! Fear Allah as He ought to be feared and die not except as Muslims. And hold fast altogether by the rope of Allah and do not be divided amongst yourselves. And remember Allah's favor on you, for you were enemies and He joined your hearts in love, so that by His grace you became brothers. And you were on the brink of a pit of fire and He saved you from it. Thus does Allah make His signs clear to you that perhaps you may be guided." [*Sûrah Âl `Imrân*: 102-103]

Brotherhood in faith embraces all those who fall under the covenant of Islam, regardless of the mistakes they might make. Whoever is a Muslim possessing full faith is entitled to the full rights accorded by this brotherhood. A person who is deficient in his Islam or his faith also deserves the rights that his Islam accords him. He should, however, be avoided in those matters where he falls short. This has nothing to do with whether he agrees or disagrees with you in matters that fall within the domain of *ijtihâd* and personal opinion.

A verse that comes shortly after the passage of the *Qur'ân* quoted above reads: "And do not be like those who divided themselves and disagreed after clear signs had come to them. They will have a severe punishment." [*Sûrah Âl-`Imrân*: 105] In this verse, division is prohibited and categorically condemned.

We find in the *hadîth* what indicates to us that even the appearance of division is prohibited. Abû Tha`labah al-Khashanî relates that the people divided themselves among the gorges and valleys, so the Prophet (peace be upon him) said: "Your dividing yourselves among these gorges and valleys is only from Satan." Abû Tha`labah then

mentions that they never again settled in a place without converging together, until it was said that if a piece of cloth were placed over them, it would cover them all.[3]

This theme reoccurs in the *Qur'ân* in many places, especially when it discusses the nations of the People of the Scripture and how their religion became corrupted.

In the same verse above, we can see that disagreement is not categorically prohibited, showing that disagreement is of two kinds: acceptable and unacceptable. What is prohibited is to disagree after clear signs have been given. This type of disagreement is reprehensible because it shows disregard for Allah's guidance. In other verses of the *Qur'ân* where disagreement is prohibited, it is connected with envy or enmity.

There must be agreement on the established principles and unambiguous teachings of the faith that the *Qur'ân* and *Sunnah* repeatedly make mention of and upon which the scholars unanimously agree.

There must also be agreement on how to disagree, so that disagreements stay within proper bounds and do not infringe upon the rights of brotherhood or cause discord and strife between Muslims. Disagreements should never prevent people from accepting other people's advice, criticism, and clarifications. No level of disagreement should keep people from giving evidence for their opinions. At the same time, they must not think that by giving such evidence, they are putting an end to all further debate.

Very often, we lament the lack of unity, when what we are really hoping for is for people to unite around our own views and opinions. This can never happen. It did not even happen among the closest Companions of Prophet Muhammad (peace be upon him) or the greatest scholars of the earliest generations, the *Salaf*. However, we need to come together and get beyond our individual self-centeredness, especially in these times of crisis. We must respond to what is bad with what is good and busy ourselves with productive work.

THE FOURTH DISCOURSE
Striking a Balance between Knowledge and Human Tendencies

A person's intentions and sentiments relate directly to his actions. Likewise, his understanding and ability to conceptualize contribute to his knowledge. Both knowledge and action come under faith. Consequently, both of these elements are given due consideration by Islamic Law when it comes to formulation its rulings and positions. This means that a balance must always be maintained between the two.

When a person's intentions and deeds are devoid of knowledge, the person ends up violating Islamic Law directly. Likewise, knowledge that is devoid of purpose leads a

[3] *Sunan Abî Dâwûd*.

person to violate Islamic Law in more subtle ways. Islamic thinkers today who are concerned with the affairs of the Muslims are generally praiseworthy with respect to both their knowledge and their conduct. When they fall short, it is usually because they fail to strike a balance between the two, either missing the balance between inclination and conceptualization or between legal understanding and intention.

Sometimes we see a stance being taken on an issue merely on the basis of strong sentiments that are in and of themselves correct, but that cannot be considered on their own. The conclusions reached in this way are merely emotional, without conforming to the dictates of knowledge or the conceptual framework of Islamic Law.

We see other opinions being advanced that are based solely on academic considerations. Sentiments and intentions are disregarded, leading to conclusions that fail to realize the true intent of Islamic Law.

This becomes clear when we consider the fact that Islamic Law is based upon mercy, and mercy falls under intent and sentiment. In the story of Mûsâ (Moses) and Khidr (peace be upon them both) that is related in the *Qur'ân*, Allah describes Khidr in the following way: "So they found one of Our servants on whom We bestowed mercy from Ourselves and to whom We taught knowledge from Ourselves." [*Sûrah al-Kahf*: 65] Khidr was granted knowledge together with mercy.

All the scriptures that were revealed to the Prophets brought with them this balance between sentiment and knowledge. Allah describes the *Torah* in the following words: "Then We gave Mûsâ the Book to complete Our favor upon those who would do right and to explain all things in detail and to be a guidance and mercy so that perchance they would believe in the meeting with their Lord." [*Sûrah al-An`âm*: 154]

Consider how Allah describes the *Qur'ân*: "Truly, this *Qur'ân* explains to the Children of Israel most of the matters in which they disagree. And it is a guidance and a mercy to those who believe." [*Sûrah al-Naml*: 76-77] In these verses, Allah takes clarifying the disagreements that the Children of Israel have – which concerns knowledge – and brings it together with the idea of mercy. This appears in the *Qur'ân* quite often. In some places, it refers to this meaning with the phrase: "guidance and the religion of truth."

The proper balance must be achieved between knowledge and action when approaching the issues that affect Muslim society and when formulating rulings to deal with matters of public concern. This is the proper way to realize the purposes of Islamic Law and it is in fact, a way of following in the footsteps of the Prophets. Prophet Muhammad (peace be upon him) is described in the *Qur'ân* as a mercy to all the worlds. The *Qur'ân* is also described as being a mercy, as well as being a guidance and a light.

Some people are naturally disposed to valor, strength, struggle, and righteous indignation. These people tend to lean more towards action and generally look at matters only from this angle without regarding the other dimensions that the issues have.

Other people gravitate naturally to probity, knowledge, and contemplation. They consequently approach matters accordingly, but often neglect other considerations that Islamic Law demands we take into account.

There are some people who tend towards severity and the exercise of strength, while others think only about weakness and considerations of safety. These and other human tendencies must be kept in balance.

It is not possible to strip a person of his natural inclinations and personality, nor is it really desirable to do so. This is why Islamic Law commands us to keep a balance between those matters that comprise what is true and to repel what is not. This is because we are not only confronted with falsehood in the realm of knowledge, but also in the realm of our sentiments and inclinations. Allah created our inner selves and gave them balance, and inspired them to be able to discern what is wrong from what is right.

We have already established that it is forbidden to take knowledge as a source of contention and strife between people, even when the one who does so has a valid position. Such contention goes beyond the position itself, and it is this contention that is reprehensible. It follows, then, that taking personal inclinations as a source of contention and hostility is even more reprehensible.

Just as some people stir up hostilities with the correct knowledge that they have, others do so with their sentiments and personal preferences. Some of these personal tendencies might be praiseworthy in and of themselves, like fortitude, courage, patience, and generosity, but this does not mean that they are suitable for every situation. Moreover, these tendencies do not give those who possess them license to infringe upon the rights of others.

Some people even take their opinions and speculations as a cause for contention, though they have no definite knowledge to back them up. Likewise, there are those who do the same with their less than praiseworthy tendencies, not to mention those people who are outright unscrupulous.

So, if we say that it is reprehensible for a person to take what he has of true and certain knowledge as a source of contention – knowledge that was revealed to the Messengers of Allah – then taking anything less as a source of contention is even worse. Contention is a meaning that we should understand very well. We should not let it become obscured by carefully chosen words and judicious speech.

In light of all this, `Alî b. Abî Tâlib, from whom the greatest jurists and scholars of the *Sunnah* took their knowledge, understood that it is best to withhold some transmitted knowledge from people of weak understanding.

Al-Bukhârî writes in his *Sahîh*: "Chapter: Whoever abandons some options fearing that some people will not be able to understand" then goes on to relate the following *hadîth* from `Â'ishah, the wife of the Prophet (peace be upon him):

The Prophet (peace be upon him) said: "O `Â'ishah, If it was not for the fact that your people were up to recently unbelievers, I would have torn down the Ka`bah and rebuilt it with two doors, one by which people may enter and another by which they may leave."

Then al-Bukhârî comes with another chapter: "Chapter: Whoever is selective in conveying knowledge fearing that some people will fail to understand." Under this heading, he mentions `Alî's statement: "Speak to people about matters of which they have some ability to understand. Would you prefer that they give the lie to Allah and His Messenger?"

Ibn Hajar al-`Asqalânî, in his commentary on *Sahîh al-Bukhârî* discusses Alî's statement and adds the following statement of Ibn `Abbâs: "When you relate a *hadîth* to people who cannot understand it, you will invariably test the faith of some of them." Then Ibn Hajar goes on to mention other narrations that support this meaning.

Perhaps one of the most subtle points to understand in this regard is that a person may take a liking to something he finds agreeable in matters of Islamic knowledge or Islamic work and allow it to overshadow other matters that are more beneficial. This may lead him to disregard the truth and undervalue the opinions and efforts of others.

And success belongs only to those to whom Allah grants it.

THE FIFTH DISCOURSE
Taking into Consideration that not All People are Equally Burdened

There is no dispute that all of the duties imposed on us by Islamic Law are a vital and intrinsic part of our faith. Faith is both profession and action, embracing every word and deed found in Islamic Law. This is the understanding of faith that was agreed upon by the Companions.

There is, however, another fact that must be understood, which is that people are not equally liable with respect to the commands and prohibitions of Islamic Law. The reasons for this inequality vary. Some of them may be specific for one case while some may be applicable to others.

Allah created the children of Adam and placed them in different ranks with respect to the gifts with which he endowed them, and He tries His servants accordingly. Allah says: "It is He who has made you inheritors of the Earth. He has raised you in ranks, some above others, that He may try you in the gifts that He has given you. Your Lord is swift in punishment, yet He is Oft Forgiving, Most Merciful." [*Sûrah al-An`âm*: 165]

Therefore, part of understanding how to approach matters of public concern from an Islamic legal standpoint is to recognize that all people are not equally accountable when it comes to a given duty or obligation. It does not follow that just because a given individual is obligated to do something that everyone who seems to be equal to that

individual is equally obligated. This is more the case when we can actually observe the disparity or inequality between the individuals in the matter of concern.

In order to appreciate the fact that not all people are equally burdened, the one looking into the matter must enjoy a degree of balance and moderation. Such an appreciation, however, brings insight into how legal accountability embraces different people differently and it makes a person conscious of all the objectives of Islamic Law, so that he does not focus on only one.

There are many viewpoints and approaches with respect to Islamic work. They spring from the comprehensiveness of Islamic Law. In this way, all of the fields of endeavor that warrant the participation of Islamic workers are properly covered. This prevents the efforts of Islamic workers from becoming restricted to a narrow set of goals, which is a wager that rarely pays off. When we work within such a restricted vision, we often have to wager on things happening that are exclusively in Allah's power and that only He has knowledge of.

When we apply this meaning to the idea that people have different degrees of accountability, we recognize that we must not act contrary to Islamic Law by imposing on the Muslims what the Law has not made obligatory upon them. We cannot hold them accountable for things that are outside of their control.

The trials that Allah decrees for the Muslims to face have to be confronted in ways that are sanctioned by Islamic Law. We cannot confront them in any way that might seem appropriate, irrespective of how much we overstep the bounds of the Law or the dictates of reason in doing so. When faced with something bad or harmful, we have a natural urge to repel it in any way we can. This might lead us to transgress against others. That is why such trying circumstances require introspection, balanced thinking, and recognition that it is not possible to rid the world of all the evil and iniquity that it contains.

Such trials are the decrees of Allah that have already come to pass. They are the fruits of the evil that people have sent forth with their own hands. Allah has full knowledge of everything that He wills and everything that He creates. In this way, His decree as to what will be has already passed. Allah says: "Corruption has appeared on land and sea because of what humanity has earned by their own hands, so that Allah can give them a taste of some of their deeds and perhaps they may turn back from evil." [*Sûrah al-Rûm*: 41]

All of the rulings of Islamic Law are conditional upon a person's ability to carry them out. Whenever a person is unable to do so, accountability is lifted. This is well understood on the individual level, and though this principle is a matter of juristic consensus, it is often forgotten when people turn their attention to issues that affect others.

One of the requirements of juristic decision-making is to ascertain whether something is possible, since it is a well known fact that Islamic law does not obligate anyone to act

outside of his capacity. One part of understanding where accountability lies is to differentiate between Islamic rulings and matters that fall exclusively within the domain of Allah's power. Islamic rulings can never be taken out of the context of the real world of Allah's decrees in which they are to function. At the same time, it is not correct to try to arrive at one exclusively by way of the other. This is why accountability has been incurred with respect to matters where what Allah has ordained in the world had been to the contrary. This is because legal accountability is something general, related to human ability. Hence, there is no contradiction between Allah's legal decrees and His decree as to what occurs in the world when the latter goes against the former.

It is a well understood principle among the scholars of *Ahl al-Sunnah* that there is no necessary correlation between the decrees of Islamic Law and the decrees of Allah in His Creation. This means that what Allah ordains in Creation is not necessarily going to coincide with what we arrive at by way of *ijtihâd*. What Allah ordains is a matter of the Unseen, based on Allah's absolute knowledge and wisdom that is specific to His Lordship.

This is part of Islamic monotheism that people violate when they try to correlate between concepts like "truth" and "divine assistance". Many people say things like: "This is the truth that we are on. Therefore, we must definitely receive divine assistance during the course of our lifetimes and see it with our own eyes. This is because truth is always assisted."

These people fail to differentiate between principles and the outward application of principles. The principle that "truth is divinely assisted" is undoubtedly correct. However, recognizing the practical reality of "truth" or the practical expression of "divine assistance" is another matter entirely.

We must realize that values in the abstract are not the same as the attempt to practically express those values. This attempt is where our accountability lies. It requires a broad study of the Islamic legitimacy of whatever stance we take. It is not merely a matter of selecting an option that we then persist in and goad others into considering.

We might be able to convince people that what we are engaged in is in accordance with Islamic teachings, but this does not mean that this is actually the case in every aspect of what we are doing. This is the first reason why divine assistance may not be forthcoming – for the simple fact that what we are on is not really the truth! We must also be cognizant of what divine assistance entails and how it manifests itself. Likewise, we must understand that what goes on in the world is Allah's exclusive decree and it does not come about as a response to our attempts at *ijtihâd*, no matter how sincere we might be in our efforts. The affairs of Creation are the decisions of Allah alone. None but He encompasses them with his knowledge. This should let us know that we should not promise people divine assistance or foretell great rewards for their complying with the rulings that we arrive at by way of *ijtihâd*.

The Messengers (peace be upon them) did not make promises that reduced people's options and made them wait passively for things to happen. That would have been in blatant disregard for the reason why humanity was placed on Earth. The Prophets (peace be upon them) ordered people to fear Allah and promised them nothing other than Paradise. The final Message brought by Prophet Muhammad (peace be upon him) came with but one more promise: that the religion of Islam would be established on Earth.

We must put our understandings in order. We need to understand matters in a balanced way. This requires that we study the methodology outlined for us by Islamic Law and use it to fortify ourselves and free ourselves from being ruled by our affections. In this way, we will be able to realize true devotion to Allah.